THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.15177 OF 2007

Dated 13-08-2007

Between:
M/s Carlton Industrial Engineers …Petitioner

And

The Commercial Tax Officer and another …Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.15177 OF 2007

O R D E R *(Per the Hon'ble Sri Justice Bilal Nazki):*

Heard learned counsel for the parties and with their consent, the writ petition is being disposed of at this stage.

The writ petition has been filed challenging the order of the Appellate Deputy Commissioner-the second respondent, dated 14-05-2007. The impugned order was a common order pertaining to various years of assessment. The petitioner is aggrieved of the order, with respect to the assessment year 2005-2006 and his grievance is that he had taken a specific plea in ground No. (e) of the grounds of appeal that he was supplying man power and that it was not taxable, but the learned Appellate Authority did not consider this ground in the impugned order. The petitioner has submitted that with respect to other years, he has already filed appeals and in this case there is miscarriage of justice as one of the most important arguments of the petitioner was not considered by the Appellate Authority.

Learned Special Standing Counsel for Commercial Taxes submits, on instructions, that he has been told that though ground No. (e) has been mentioned in the grounds of the appeal, but no

arguments were addressed before the Appellate Authority.

Without going into the controversy, whether such an argument was made or not, as the ground was raised in the grounds of appeal, we feel that this ground should have been addressed. Therefore, the impugned order with regard to the assessment year 2005-2006 is set aside and the matter is remanded to the Appellate Authority. The Appellate Authority is directed to pass fresh orders, after hearing the parties, taking into consideration ground No.(e) of the grounds of appeal.

The writ petition is accordingly disposed of. No order as to costs.

_____

(Bilal Nazki,J)

Dated 13th August, 2007

_____

(Nooty Ramamohana Rao,J)

vrn